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APPLICATION NO.	FILING DATE	FIRST NAMED INVENTOR	ATTORNEY DOCKET NO.	CONFIRMATION NO.
10/729,409	12/05/2003	Christopher Detrembleur	PO7956/LeA 36,261	9565
157	7590	07/26/2005	EXAMINER	
BAYER MATERIAL SCIENCE LLC 100 BAYER ROAD PITTSBURGH, PA 15205			ASINOVSKY, OLGA	
			ART UNIT	PAPER NUMBER
			1711	

DATE MAILED: 07/26/2005

Please find below and/or attached an Office communication concerning this application or proceeding.

## Office Action Summary

Application No.

10/729,409

Applicant(s)

DETREMBLEUR ET AL.

Examiner

Olga Asinovsky

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-- The MAILING DATE of this communication appears on the cover sheet with the correspondence address --

### Period for Reply

A SHORTENED STATUTORY PERIOD FOR REPLY IS SET TO EXPIRE 3 MONTH(S) FROM THE MAILING DATE OF THIS COMMUNICATION.

- Extensions of time may be available under the provisions of 37 CFR 1.136(a). In no event, however, may a reply be timely filed after SIX (6) MONTHS from the mailing date of this communication.
- If the period for reply specified above is less than thirty (30) days, a reply within the statutory minimum of thirty (30) days will be considered timely.
- If NO period for reply is specified above, the maximum statutory period will apply and will expire SIX (6) MONTHS from the mailing date of this communication.
- Failure to reply within the set or extended period for reply will, by statute, cause the application to become ABANDONED (35 U.S.C. § 133). Any reply received by the Office later than three months after the mailing date of this communication, even if timely filed, may reduce any earned patent term adjustment. See 37 CFR 1.704(b).

### Status

- 1) ☒ Responsive to communication(s) filed on 27 June 2005.
- 2a) ☒ This action is **FINAL**. 2b) ☐ This action is non-final.
- 3) ☐ Since this application is in condition for allowance except for formal matters, prosecution as to the merits is closed in accordance with the practice under *Ex parte Quayle*, 1935 C.D. 11, 453 O.G. 213.

### Disposition of Claims

- 4) ☒ Claim(s) 1-9 is/are pending in the application.
- 4a) Of the above claim(s) \_\_\_\_\_ is/are withdrawn from consideration.
- 5) ☐ Claim(s) \_\_\_\_\_ is/are allowed.
- 6) ☒ Claim(s) 1-9 is/are rejected.
- 7) ☐ Claim(s) \_\_\_\_\_ is/are objected to.
- 8) ☐ Claim(s) \_\_\_\_\_ are subject to restriction and/or election requirement.

### Application Papers

- 9) ☐ The specification is objected to by the Examiner.
- 10) ☐ The drawing(s) filed on \_\_\_\_\_ is/are: a) ☐ accepted or b) ☐ objected to by the Examiner.  
Applicant may not request that any objection to the drawing(s) be held in abeyance. See 37 CFR 1.85(a).  
Replacement drawing sheet(s) including the correction is required if the drawing(s) is objected to. See 37 CFR 1.121(d).
- 11) ☐ The oath or declaration is objected to by the Examiner. Note the attached Office Action or form PTO-152.

### Priority under 35 U.S.C. § 119

- 12) ☒ Acknowledgment is made of a claim for foreign priority under 35 U.S.C. § 119(a)-(d) or (f).
- a) ☒ All b) ☐ Some \* c) ☐ None of:
1. ☒ Certified copies of the priority documents have been received.
2. ☐ Certified copies of the priority documents have been received in Application No. \_\_\_\_\_.
3. ☐ Copies of the certified copies of the priority documents have been received in this National Stage application from the International Bureau (PCT Rule 17.2(a)).
- \* See the attached detailed Office action for a list of the certified copies not received.

### Attachment(s)

- 1) ☐ Notice of References Cited (PTO-892)
- 2) ☐ Notice of Draftsperson's Patent Drawing Review (PTO-948)
- 3) ☐ Information Disclosure Statement(s) (PTO-1449 or PTO/SB/08)  
Paper No(s)/Mail Date \_\_\_\_\_.
- 4) ☐ Interview Summary (PTO-413)  
Paper No(s)/Mail Date. \_\_\_\_\_.
- 5) ☐ Notice of Informal Patent Application (PTO-152)
- 6) ☐ Other: \_\_\_\_\_.

## DETAILED ACTION

### ***Claim Rejections - 35 USC § 103***

1. The following is a quotation of 35 U.S.C. 103(a) which forms the basis for all obviousness rejections set forth in this Office action:

(a) A patent may not be obtained though the invention is not identically disclosed or described as set forth in section 102 of this title, if the differences between the subject matter sought to be patented and the prior art are such that the subject matter as a whole would have been obvious at the time the invention was made to a person having ordinary skill in the art to which said subject matter pertains. Patentability shall not be negated by the manner in which the invention was made.

2. Claims 1-9 are rejected under 35 U.S.C. 103(a) as being unpatentable over Kazmaier et al U.S. Patent 6,320,007.

The rejection is set forth at pages 2-3 of the office action mailed on 03/22/2005 and it is incorporated here by reference. All discussions are adequately set here.

### ***Response to Arguments***

3. Applicant's arguments filed June 27, 2005 have been fully considered but they are not persuasive. The argument is that oxidizing process in the present invention occurs in situ in the course of the process for producing (co)oligomers or (co)polymers such that the amine of formula (I) and an oxidizing agent are present together in situ for producing a nitroxyl radical during the polymerization process. The applicants argue that Kazmaier discloses in the first step of forming a stable free radical agent TEMPO from a precursor material, before the polymerization process, col. 4, lines 46-49; col. 5, lines 60-65.

4. However, in the alternative, Kazmaier also discloses: "the stable free radical polymerization of polymer products may be conducted in situ with the formation of the stable free radical agent from precursor materials. The present invention, in embodiments, permits both the formation of the stable free radical agent and the polymerization of polymer products using the thus-formed stable free radical agent in a single-step, single-reactor system," to produce narrow polydispersity polymer products, column 9, lines 3-13. Therefore, Kazmaier does suggest the formation of the stable free radical agent (nitroxyl radical) and the polymerization of polymer product in a single-step. Process for producing thermoplastic resin includes the in situ formation of a stable free radical agent from a precursor material in a reactor vessel, introducing a free radical initiator and at least one polymerizable monomer compound into the reactor vessel, abstract. Also, Kazmaier discloses that the oxidizing agent is innocuous and does not interfere with the polymerization process. An excess of oxidizing agent may be a benefit to increase the efficiency of the stable free radical polymerization process by increasing the polymerization rate, col. 6, lines 48-67. The oxidizing agent is present not only in the formation of the stable free radical agent, but also during the polymerization of polymer product. Process for producing thermoplastic resin in Kazmaier is readable in applicants' claims.

#### ***Terminal Disclaimer***

5. The terminal disclaimer filed on June 27, 2005 disclaiming the terminal portion of any patent granted on this application which would extend beyond the expiration date of

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patent No. 6,686,424 has been reviewed and is accepted. The terminal disclaimer has been recorded.

The obviousness-type double patenting rejection of claims 1-9 over claims 1-3 of U.S. Patent 6,686,424 is overcome in light of a proper Terminal Disclaimer.

### ***Conclusion***

6. **THIS ACTION IS MADE FINAL.** Applicant is reminded of the extension of time policy as set forth in 37 CFR 1.136(a).

A shortened statutory period for reply to this final action is set to expire **THREE MONTHS** from the mailing date of this action. In the event a first reply is filed within **TWO MONTHS** of the mailing date of this final action and the advisory action is not mailed until after the end of the **THREE-MONTH** shortened statutory period, then the shortened statutory period will expire on the date the advisory action is mailed, and any extension fee pursuant to 37 CFR 1.136(a) will be calculated from the mailing date of the advisory action. In no event, however, will the statutory period for reply expire later than **SIX MONTHS** from the mailing date of this final action.

Any inquiry concerning this communication or earlier communications from the examiner should be directed to Olga Asinovsky whose telephone number is 571-272-1066. The examiner can normally be reached on 9:00 to 5:30 pm.


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If attempts to reach the examiner by telephone are unsuccessful, the examiner's supervisor, James Seidleck can be reached on 571-272-1078. The fax phone number for the organization where this application or proceeding is assigned is 703-872-9306.

Information regarding the status of an application may be obtained from the Patent Application Information Retrieval (PAIR) system. Status information for published applications may be obtained from either Private PAIR or Public PAIR. Status information for unpublished applications is available through Private PAIR only. For more information about the PAIR system, see <http://pair-direct.uspto.gov>. Should you have questions on access to the Private PAIR system, contact the Electronic Business Center (EBC) at 866-217-9197 (toll-free).

Olga Asinovsky  
Examiner  
Art Unit 1711

O.A.  
July 17, 2005

  
James J. Seidleck  
Supervisory Patent Examiner  
Technology Center 1700